



C.R.P.(MD)No.2392 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2025

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)No.2392 of 2025

and

C.M.P.(MD)No.14329 of 2025

Annakunju

... Petitioner

-VS.-

1.State of Tamilnadu,
represented by the District Collector,
Trichy.

2.The Revenue Divisional Officer,
Musiri, Thiruchirappalli District.

3.The Tahsildar,
Lalgudi Taluk, Thiruchirappalli District.

Vellaisamy Muthuraja (Died)

4.V.Chinnammal

5.V.Velmurugan

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to set aside the judgment and decree, dated 08.09.1997 in O.S.No.70 of 1996 on the file of the learned District Munsif cum Judicial Magistrate,



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Lalgudi.

For Petitioner :Mr.V.R.Shanmuganathan
For R1 to R3 :Mr.F.Deepak
Special Government Pleader
For R4 and R5 :Mr.Naveenkumar Murthi
for Mr.K.Shanmuga Sundaram

ORDER

The present Civil Revision Petition has been filed challenging the order passed by the learned District Munsif cum Judicial Magistrate, Lalgudi, in O.S.No.70 of 1996, dated 08.09.1997.

2.Heard Mr.V.R.Shanmuganathan, learned Counsel for the petitioner, Mr.F.Deepak, learned Special Government Pleader for the respondents 1 to 3 and Mr.Naveen Kumar Murthi, learned Counsel representing Mr.K.Shanmuga Sundaram, learned Counsel for the respondents 4 and 5.

3.One Vellaisami Muthuraja, as plaintiff, has filed a suit in O.S.No.70 of 1996 on the file of the District Munsif Court, Lalgudi, which was originally filed before the Vacation Civil Judge, Trichy, in O.S.No.895 of 1995 against



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the official respondents for declaration of title. In the said suit, an *ex parte* decree was passed on 08.09.1997. Challenging the said order, dated 08.09.1997, the present Civil Revision Petition has been filed.

4.The learned Counsel for the petitioner submitted that the lands in O.S.No.13/2, New S.No.11/2, S.Kannanoor Village West, Manachanallur Taluk, Tiruchi District measuring 2.60 acres originally stand in the name of 16 persons including the Revision Petitioner. However, one Vellaisami Muthuraja, husband of the fourth respondent, had filed a suit in O.S.No.70 of 1996 before the District Munsif Court, Lalgudi, as against the official respondents, as if the suit property belonged to one Nagamuthu Muthiriar. He further submitted that in the said suit, the Tahsildar, has filed a written statement to the effect that patta stands in the name of 16 persons and that neither the plaintiff nor the said Nagamuthu Muthiriar had any right over the said lands. He further submitted that in the meanwhile, as the official respondents remained *ex parte*, an *ex parte* judgment was passed on 08.09.1997 without even issuing notice to the aforesaid 16 persons. The learned Counsel further submitted that the suit schedule property originally



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belongs to the Samayapuram Mariamman Temple, in which the petitioner and other 15 persons are Patham Thangi and they are entitled to enjoy the suit schedule property as service inamdars. He further submitted that in the year 1986, the Settlement Register was corrected and the name of one Nagamuthu was inserted and the patta was also granted in the name of Nagamuthu. Later, the said patta was also cancelled.

5.The learned Counsel for the petitioner further contended that suppressing all these facts, the present suit has been filed. He also submitted that though the petitioner is a third party, he is one of the beneficiaries by virtue of the details, which was furnished by the respondents 1 to 3/defendants in the written statement. He also submitted that none of the above 16 persons were made as parties in the suit and without impleading those persons, an *ex parte* order was passed.

6.It is his further contention that on a plain reading, the order is a cryptic in nature without explaining the contents of the plaint and the documents marked and the trial Court has only passed a two line order in O.S.No.70 of



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1996, dated 08.09.1997, which is extracted hereunder:

"P.W.1 is examined. Ex.A.1 to Ex.A11 marked. claim proved. Suit is decreed as prayed. No costs."

7.He also lamented that in the absence of non compliance of Order 20 Rules 4, 5 and 6 CPC, the said judgment cannot stand on its legs. He further contended that in collusion with the official respondents, an *ex parte* order was passed, which is *per se* illegal and sought interference of this Court.

8.*Per contra*, Mr.Naveen Kumar Murthi, learned Counsel for the respondents 4 and 5 would contend that though a written statement was filed by the defendants, it is for the Government to file an appeal challenging that order and the Revision Petitioner, who is a third party to the suit, has not made any whisper during the pendency of the trial or made an attempt before the trial Court and filing an application without any right seeking to set aside the *ex parte* order is *per se* not permissible.

9.It is his further contention that the Revision Petitioner is one among



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the plaintiffs, who has filed a suit in O.S.No.286 of 2004, wherein, he was arrived as 14th plaintiff, against Vallaisami Muthuraja, which was dismissed for default and no appeal is filed and another suit was filed in O.S.No.247 of 2012 by Vallisami Muthuraja and the said suit is decreed in their favour.

10.To strengthen his case, he relied upon a judgment of the Hon'ble Supreme Court in *Mohmed Ali vs V.Jaya and others*, reported in (2022) 10 SCC 477, wherein, the Hon'ble Supreme Court has held as follows:

18.At this stage, the decision of this Court in Virudhunagar Hindu Nadargal Dharma Paribalana Sabai v. Tuticorin Educational Society [Virudhunagar Hindu Nadargal Dharma Paribalana Sabai v. Tuticorin Educational Society, (2019) 9 SCC 538 : (2019) 4 SCC (Civ) 643] , is required to be referred to. In the said decision, it is observed and held by this Court that wherever the proceedings are under the Code of Civil Procedure and the forum is the civil court, the availability of a remedy under CPC, will deter the High Court and therefore, the High Court shall not entertain the revision under Article 227 of the Constitution of India especially in a case where a specific remedy of appeal is provided under the CPC itself. While holding so, it is observed and held in paras 11 to 13 as under : (SCC p. 542)

“11. Secondly, the High Court ought [Tuticorin Educational Society v. Virudhunagar Hindu Nadargal, CRP (MD) No. 1084 of 2018, order dated 21-8-2018 (Mad)] to have seen that when a remedy of appeal under Section 104(1)(i) read with Order 43 Rule 1(r) of the Code of Civil Procedure, 1908, was directly available, Respondents 1 and 2 ought to have taken recourse to the same. It is true that the availability of a remedy of appeal



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may not always be a bar for the exercise of supervisory jurisdiction of the High Court. In A. Venkatasubbiah Naidu v. S. Chellappan [A. Venkatasubbiah Naidu v. S. Chellappan, (2000) 7 SCC 695] , this Court held that 'though no hurdle can be put against the exercise of the Constitutional powers of the High Court, it is a well-recognised principle which gained judicial recognition that the High Court should direct the party to avail himself of such remedies before he resorts to a constitutional remedy'.

12. But courts should always bear in mind a distinction between (i) cases where such alternative remedy is available before civil courts in terms of the provisions of Code of Civil Procedure, and (ii) cases where such alternative remedy is available under special enactments and/or statutory rules and the fora provided therein happen to be quasi-judicial authorities and tribunals. In respect of cases falling under the first category, which may involve suits and other proceedings before civil courts, the availability of an appellate remedy in terms of the provisions of CPC, may have to be construed as a near total bar. Otherwise, there is a danger that someone may challenge in a revision under Article 227, even a decree passed in a suit, on the same grounds on which Respondents 1 and 2 invoked the jurisdiction of the High Court. This is why, a 3-member Bench of this Court, while overruling the decision in Surya Dev Rai v. Ram Chander Rai [Surya Dev Rai v. Ram Chander Rai, (2003) 6 SCC 675] , pointed out in Radhey Shyam v. Chhabi Nath [Radhey Shyam v. Chhabi Nath, (2015) 5 SCC 423 : (2015) 3 SCC (Civ) 67] that "orders of civil court stand on different footing from the orders of authorities or tribunals or courts other than judicial/civil courts".

13. Therefore wherever the proceedings are under the Code of Civil Procedure and the forum is the civil court, the availability of a remedy under the CPC, will deter the High Court, not merely as a measure of self-imposed restriction, but as a matter of discipline and prudence, from exercising its power of superintendence under the Constitution. Hence, the High Court ought not to have entertained the revision under Article 227



especially in a case where a specific remedy of appeal is provided under the Code of Civil Procedure itself.”

19. Applying the law laid down by this Court in the aforesaid decision to the facts of the case on hand, the High Court ought not to have entertained the revision petition under Article 227 of the Constitution of India against the ex parte judgment and decree passed by the learned trial court in view of a specific remedy of appeal as provided under the Code of Civil Procedure itself. Therefore, the High Court has committed a grave error in entertaining the revision petition under Article 227 challenging the ex parte judgment and decree passed by the learned trial court and in quashing and setting aside the same in exercise of powers under Article 227 of the Constitution of India.

20. Even otherwise considering the impugned common judgment and order [V. Perumal v. Mohd. Ali, 2021 SCC OnLine Mad 15093] passed by the High Court, it appears that while setting aside the ex parte judgment and decree, the High Court has commented upon the legality and validity of the judgment and decree passed by the learned trial court as if the High Court was exercising the appellate jurisdiction against the judgment and decree passed by the learned trial court.

21. Before considering the judgment and decree on merits and/or expressing anything on merits on the legality and validity of the judgment and decree (ex parte), the High Court was required to consider whether the learned trial court was justified in passing the ex parte judgment and decree or not. The High Court was also required to consider whether the learned trial court was justified in refusing to condone the delay of 1522 and 2345 days in filing the petition challenging the ex parte judgment and decree.

22. Therefore, in the facts and circumstances of the case, the impugned common judgment and order passed by the High Court is unsustainable, both, on law as well as on facts. The High Court has exceeded in its jurisdiction while setting aside the ex parte judgment and decree in exercise of powers under Article 227 of the Constitution of India. The impugned common judgment and order passed by the High Court is on irrelevant



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considerations and the relevant aspects as observed hereinabove have not been considered and dealt with by the High Court. Under the circumstances, the impugned common judgment and order [V. Perumal v. Mohd. Ali, 2021 SCC OnLine Mad 15093] passed by the High Court deserve to be quashed and set aside.

23. In view of the above and for the reasons stated above, the present appeals succeed. The impugned common judgment and order dated 19-11-2021 [V. Perumal v. Mohd. Ali, 2021 SCC OnLine Mad 15093] passed by the High Court in Civil Revision Petition (NPD) No. 1054/2021 and Civil Revision Petition (PD) No. 1301/2021, is hereby quashed and set aside. The ex parte judgment and decree passed by the learned trial court as well as the order(s) passed by the learned trial court refusing to condone the delay of 2345 days in preferring the revision petition(s) challenging the ex parte judgment and decree filed by original Defendants 2 to 4 is/are hereby restored. Present appeals are allowed accordingly. In the facts of the case, there shall be no order as to costs."

11.This Court considered the submissions made on either side and perused the materials available on record.

12.The points for consideration are whether the third party right is included or not is a primary question and whether the *ex parte* judgment passed by the trial Court falls under the ambit of Order 20 Rules 4, 5 and 6 CPC.

13.Admittedly, one Vellaisami Muthuraja, as plaintiff, has filed a suit in



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O.S.No.70 of 1996 on the file of the District Munsif Court, Lalgudi, against the official respondents for declaration of title and an *ex parte* decree was passed on 08.09.1997. The petitioner claims that he is one of the beneficiaries as Patham Thangi, wherein, there are 16 persons having right and patta stands in their name.

14. There is no quarrel with regard to the proposition laid down by the Hon'ble Supreme Court, as there is an appellate remedy available for the aggrieved person. However, when the *ex parte* judgment has not discussed anything with regard to the contents in the plaint and in the absence of any reference to the relevance of documents marked, the *ex parte* judgment, which was passed in a cryptic way and does not fall under the ambit of Order 20 Rules 4, 5 and 6 CPC cannot be taken into consideration, *de horse* of the delay or right of the Revision Petitioner. Further, in this case, according to the Revision Petitioner, he is one of the beneficiaries, as Patham Thangi and there are 16 persons including the Revision Petitioner, have right and patta stands in their name.



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15. In view of the same, the order passed by the learned District Munsif cum Judicial Magistrate, Lalgudi, in O.S.No.70 of 1996, dated 08.09.1997, is set aside and the suit is remanded back for fresh consideration. As the suit is of the year 1996, the trial Court shall conclude the trial within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

17.12.2025

Internet : Yes/No
NCC : Yes/No
Index : Yes/No
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To

1. The District Munsif cum Judicial Magistrate, Lalgudi.

2. The District Collector,
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3. The Revenue Divisional Officer,
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4. The Tahsildar,
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N.SENTHILKUMAR, J.

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